

ESTTA Tracking number: **ESTTA632548**

Filing date: **10/13/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Kimberly-Clark Worldwide, Inc.
Granted to Date of previous extension	10/12/2014
Address	2300 Winchester Road Neenah, WI 54956 UNITED STATES

Attorney information	Kathleen E. McCarthy King & Spalding LLP 1185 Avenue of the Americas New York, NY 10036 UNITED STATES trade-marks.legal@kcc.com,nytrademarks@kslaw.com,kmccarthy@kslaw.com,slukse nberg@kslaw.com,bbaber@kslaw.com Phone:2125562345
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Applicant Information

Application No	85901644	Publication date	04/15/2014
Opposition Filing Date	10/13/2014	Opposition Period Ends	10/12/2014
Applicant	Matosantos Commercial Corp. Cabo Caribe Industrial Park Vega Baja, 00693 PR		

Goods/Services Affected by Opposition

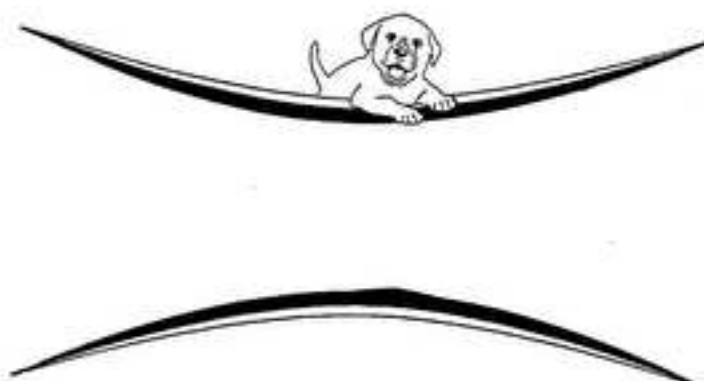
Class 016. First Use: 2013/02/07 First Use In Commerce: 2013/02/07
All goods and services in the class are opposed, namely: Toilet paper


Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2918076	Application Date	02/14/2003
Registration Date	01/11/2005	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2003/08/11 First Use In Commerce: 2003/08/11 disposable wipes impregnated with a cleaning compound for personal hygiene Class 016. First use: First Use: 2003/08/11 First Use In Commerce: 2003/08/11 bathroom tissue

U.S. Registration No.	2918077	Application Date	02/14/2003
Registration Date	01/11/2005	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2003/08/11 First Use In Commerce: 2003/08/11 disposable wipes impregnated with a cleaning compound for personal hygiene Class 016. First use: First Use: 2003/08/11 First Use In Commerce: 2003/08/11 bathroom tissue		

Attachments	78215104#TMSN.png(bytes) 78215131#TMSN.png(bytes) Tender Puff Bathroom Tissue & Puppy Design Opposition.pdf(180628 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kathleen E. McCarthy/
Name	Kathleen E. McCarthy
Date	10/13/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KIMBERLY-CLARK WORLDWIDE, INC.)	Opposition No.
)	
Opposer,)	
)	
v.)	
)	
MATOSANTOS COMMERCIAL CORP.,)	
)	
Applicant.)	In the matter of Application
)	Serial No. 85/901,644
)	For the mark: TENDER PUFF
)	BATHROOM TISSUE and
)	Design
)	Published: April 15, 2014

OPPOSITION

Opposer, Kimberly-Clark Worldwide, Inc. (hereinafter “Opposer” or “Kimberly-Clark”), is a Delaware corporation with its principal place of business at 2300 Winchester Road, Neenah, Wisconsin, 54956. Opposer believes it will be damaged by registration of the mark TENDER PUFF BATHROOM TISSUE and Puppy Design as shown below:



(“Applicant’s Alleged Mark”) for “toilet paper” in Class 16 (“Applicant’s Goods”), which mark is the subject of application Serial No. 85/901,644, filed on April 11, 2013 by Matosantos Commercial Corp. (“Applicant”) and published for opposition

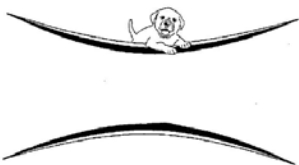
in the Official Gazette on April 15, 2014, and, by and through its undersigned attorneys, hereby opposes the same.


The grounds for this Opposition are as follows:

1. Opposer has adopted and used for many years in interstate commerce a Puppy shown in various poses and live in various television commercials and videos as a trademark and brand ambassador (“Opposer’s Puppy Design Mark”) for and in connection with Opposer’s marketing and promotion of, and on the packaging for, various goods in the fields of disposable paper products and personal hygiene products, including but not limited to, bathroom tissue and disposable wipes (“Opposer’s Goods”).

2. Opposer is and has been at all times pertinent hereto (including since long prior to the filing date of the Application), the owner of all right, title and interest in and to Opposer’s Puppy Design Mark.

3. Opposer is the owner of numerous registrations for Opposer’s Puppy Design Mark for various goods in Classes 3 and 16 including the following U.S. federal trademark registrations which are in full force and effect:

Registration Details	Status / Dates	Goods
 SN: 78-215104 RN: 2,918,076	Registered January 11, 2005 First Use August 11, 2003	(Int'l Class: 3) Disposable wipes impregnated with a cleaning compound for personal hygiene (Int'l Class: 16) Bathroom tissue

Registration Details	Status / Dates	Goods
 SN: 78-215131 RN: 2,918,077	Registered January 11, 2005 First Use August 11, 2003	(Int'l Class: 3) Disposable wipes impregnated with a cleaning compound for personal hygiene (Int'l Class: 16) Bathroom tissue

4. Both of Opposer's above-listed registrations, namely, Registration Nos. 2,918,076 and 2,918,077, are incontestable under Section 15 of the Lanham Act.

5. Opposer's Puppy Design Mark has been continuously used and extensively advertised and promoted in interstate commerce for over a decade for and in connection with one or more of Opposer's Goods.

6. Opposer has used and promoted Opposer's Puppy Design Mark in numerous ways including in various advertisements and television commercials and on its packaging as shown in the images below:



7. As a result of the long, widespread and extensive use, advertising and promotion by Opposer of Opposer's Puppy Design Mark on and in connection with Opposer's Goods, Opposer's Puppy Design Mark serves to identify and distinguish Opposer's Goods from the goods, services and businesses of others; symbolizes the goodwill of Opposer's business; is well-known; and is of great value to Opposer in connection with the offering of Opposer's Goods.

8. By the Application, Applicant seeks to register the mark TENDER PUFF BATHROOM TISSUE and Puppy Design in connection with "toilet paper" in Class 16. The design element of Applicant's mark consists of a puppy holding a heart shaped pillow as shown below:



9. The puppy shown in Applicant's Alleged Mark is the same or similar dog breed as the puppy in Opposer's Puppy Design Mark and/or is otherwise confusingly similar to Opposer's Puppy Design Mark.

10. Applicant's Application claims February 7, 2013 as the date of first use of Applicant's Alleged Mark. Accordingly, even assuming that date is accurate, Applicant is unable to establish, with respect to Opposer's use of Opposer's Puppy Design Mark, priority of use or priority of rights in the United States in connection with Applicant's Alleged Mark.

11. By virtue of its prior use and registrations, Opposer has rights in Opposer's Puppy Design Mark prior and superior to any rights of Applicant in Applicant's Alleged Mark.

12. Applicant's Goods and Opposer's Goods both include bathroom tissue and/or toilet paper in Class 16. In addition, on information and belief, Applicant's Goods and Opposer's Goods are of identical types; are offered or may be offered through the same or substantially the same, and/or related channels of trade, to the same, substantially the same, and/or related classes of purchasers; and are advertised, marketed and promoted through the same media channels.

13. Applicant's Alleged Mark, when used in connection with Applicant's Goods, so resembles Opposer's Puppy Design Mark as to be likely to cause confusion, or to cause mistake, or to deceive with respect to the source or origin of Applicant's Goods; with respect to Opposer's sponsorship thereof or connection or affiliation therewith; and/or in other ways, in violation of Section 2(d) of the Lanham Act.

14. Opposer would be damaged by registration of Applicant's Alleged Mark because such registration would constitute prima facie evidence of Applicant's exclusive right to use Applicant's Alleged Mark for and in connection with Applicant's Goods, which would be inconsistent with and detrimental to Opposer's prior, established and superior rights in and to Opposer's Puppy Design Mark.

15. Applicant's Alleged Mark falsely suggests a connection or affiliation with Opposer in violation of Section 2(a) of the Lanham Act and Applicant is therefore not entitled to registration of Applicant's Alleged Mark.

16. By reason of the foregoing facts, Opposer believes it will be irreparably damaged by the registration of Applicant's Alleged Mark.

PRAYER FOR RELIEF

WHEREFORE, Opposer respectfully prays that the Application of Matosantos Commercial Corp identified by Serial No. 85/901,644 for the alleged mark TENDER PUFF BATHROOM TISSUE and Puppy Design be refused

registration in Class 16, and that no registration be issued to Applicant, and that this opposition be sustained in favor of the Opposer.

Date: October 13, 2014

Respectfully submitted,

/Kathleen E. McCarthy/
Kathleen E. McCarthy

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Attorneys for Opposer
Kimberly-Clark Worldwide, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Opposition was served upon Applicant on the date indicated below by depositing a true and correct copy thereof with the United States Postal Service as First Class Mail, postage prepaid, addressed to the correspondent of record for the Applicant as indicated in the USPTO TARR database as follows:

Samuel F. Pamias
Hoglund & Pamias, P.S.C.
256 Eleanor Roosevelt
San Juan, Puerto Rico 00918
United States

Dated: October 13, 2014

/Kathleen E. McCarthy/
Kathleen E. McCarthy
Attorney for Opposer